

ARTICLE XXIV

STORMWATER MANAGEMENT BYLAW

Section 1.0 General Provisions

Section 1.1 Title, Purpose, and Intent

- A. This Article shall be known as the Stormwater Management Bylaw of the Town of Holden (the "Bylaw") and may be so cited.
- B. Increased volumes of stormwater, contaminated stormwater runoff from impervious surfaces, and soil erosion and sedimentation are major causes of: impairment of water quality and flow in lakes, ponds, streams, rivers, wetlands and groundwater; contamination of drinking water supplies; erosion of stream channels; alteration or destruction of aquatic and wildlife habitat; flooding; and overloading or clogging of municipal catch basins and storm drainage systems.
- C. Regulation of illicit discharges and land disturbance activities contributing contaminated stormwater runoff to the Town of Holden's municipal storm drain system is necessary for the protection of the Town's water bodies and groundwater, and to safeguard the public health, safety, welfare, and the environment. This Bylaw is required to meet all applicable federal and state requirements of the Town's National Pollutant Discharge Elimination System Small Municipal Separate Storm Sewer Systems General Permit, commonly known as the "NPDES MS4 permit."
- D. The purposes, objectives, and intent of this Bylaw are as follows:
 - 1. To prevent pollutants from entering the Town's municipal storm drainage system and waters of the Commonwealth of Massachusetts;
 - 2. To establish an Authorized Enforcement Agency to promulgate, adopt, implement, enforce and amend stormwater regulations;
 - 3. To prohibit non-stormwater and unauthorized discharges, connections and obstructions to the municipal storm drainage system;
 - 4. To require the removal of all such illicit discharges, connections and/or obstructions;
 - 5. To comply with state and federal statutes and regulations relating to stormwater discharges;
 - 6. To establish procedures to regulate construction and post-construction stormwater runoff management from new development and redevelopment; and
 - 7. To establish legal authority to ensure compliance with the provisions of this Bylaw through inspection, monitoring, and enforcement.

Section 1.2 Definitions

A. The terms used in this Bylaw shall have the following meanings:

1. **ALTERATION OF DRAINAGE CHARACTERISTICS:** Any land disturbing activity, as defined herein, on an area of land that changes the water quality, or the force, quantity, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.
2. **CLEAN WATER ACT:** The federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.
3. **CLEARING:** Any activity that removes the vegetative surface cover. Clearing activities generally include grubbing activity as defined below.
4. **COMMON PLAN OF DEVELOPMENT OR SALE:** A contiguous area where multiple separate and distinct construction activities are occurring under one plan.
5. **DEVELOPMENT:** The modification of land to accommodate a new use or expansion of use, usually involving construction.
6. **DIRECTOR:** The Director of the Town of Holden Department of Public Works.
7. **DISCHARGE OF POLLUTANTS:** The addition from any source of any pollutant or combination of pollutants into the municipal storm drain system or into the waters of the United States or Commonwealth from any source.
8. **ENFORCING AGENT:** The Town's Director of Public Works, the Stormwater Committee (as defined herein), or its designated agent.
9. **EROSION:** The wearing away of the land surface by natural or artificial forces such as wind, water, ice, gravity, or vehicle traffic and the subsequent detachment and transportation of soil particles.
10. **GRADING:** Changing the level or shape of the ground surface.
11. **GROUNDWATER:** Water beneath the surface of the ground.
12. **GRUBBING:** The act of clearing land surface by digging up roots and stumps.
13. **ILLICIT CONNECTIONS:** An illicit connection is defined as either of the following:
 - (a) Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the municipal storm drain system, including but not limited to, any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the municipal storm drain system, and any connections to the municipal storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by a government agency; or
 - (b) Any drain or conveyance connected from a commercial or industrial land use to the municipal storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Town.

14. **ILLCIT DISCHARGE:** Any direct or indirect non-stormwater discharge to the municipal storm drain system, except as exempted in *Section 2.2* of this Article.
15. **IMPERVIOUS SURFACE:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks, and roof tops. Impervious surface also includes soils, gravel driveways, and similar surfaces with a runoff coefficient (Rational Method) greater than 85.
16. **LAND-DISTURBING ACTIVITY, LAND DISTURBANCE, or DISTURBANCE of LAND:** Any activity, including clearing and grubbing, that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material.
17. **MASSACHUSETTS STORMWATER MANAGEMENT POLICY:** The Policy issued by the Department of Environmental Protection, as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act MGL c. 131 s. 40 and the Massachusetts Clean Waters Act MGL c. 21, ss. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.
18. **MUNICIPAL STORM DRAIN SYSTEM or MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4):** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or manmade or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Holden.
19. **NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) STORM WATER DISCHARGE PERMITS:** General, group, and individual stormwater discharge permits issued by the United States Environmental Protection Agency which regulate facilities defined in federal NPDES regulations pursuant to the Clean Water Act.
20. **NON-STORMWATER DISCHARGE:** Any discharge to the municipal storm drain system that is not composed entirely of stormwater.
21. **OWNER:** A person with a legal or equitable interest in property.
22. **PERMITTEE:** The person who holds a land disturbance permit and therefore bears the responsibilities and enjoys the privileges conferred thereby.
23. **PERSON:** Any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, legal entity, agency, public or quasi-public body, authority, department, or political subdivision of the Town of Holden, the Commonwealth, or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.
24. **PLAN:** Any announcement or piece of documentation or physical demarcation indicating construction activities may occur on a specific plot.
25. **POLLUTANT:** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, articles, and accumulations, so that same may cause or contribute to pollution; floatables;

pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure (including but not limited to sediments, slurries, and concrete rinsates); and noxious or offensive matter of any kind.

26. POLLUTION: The human-made or human-induced alteration of the quality of waters by waste to a degree which unreasonably affects, or has the potential to unreasonably affect, either the waters for beneficial uses or the facilities which serve these beneficial uses.
27. RECHARGE: The replenishment of underground water reserves.
28. REDEVELOPMENT: Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.
29. RESPONSIBLE PARTY(IES) or PERSON(S): owner(s), persons with financial responsibility, and persons with operational responsibility.
30. RUNOFF: Rainfall, snowmelt, or irrigation water flowing over the ground surface.
31. SEDIMENT: Mineral or organic soil material that is transported by wind or water, from its origin to another location; the product of erosion processes.
32. SEDIMENTATION: The process or act of deposition of sediment.
33. SITE: Any lot or parcel of land or area of property where land-disturbing activities are, were, or will be performed.
34. SLOPE: The incline of a ground surface expressed as a ratio of horizontal distance to vertical distance.
35. SOIL: Earth materials including duff, humic materials, sand, rock and gravel.
36. STORMWATER: Any surface flow, runoff, and drainage consisting entirely of water from rainstorm events.
37. STORMWATER COMMITTEE: A Committee of the Town of Holden consisting of the Department of Public Works Director or his designee, the Conservation Commission Agent, the Town Planner, and the Building Commissioner.
38. STRIP: Any activity which removes the vegetative ground surface cover, including tree removal, clearing, grubbing, and storage or removal of topsoil.
39. SURFACE WATER DISCHARGE PERMIT. A permit issued by the Department of Environmental Protection (DEP) pursuant to 314 CMR 3.00 that authorizes the discharge of pollutants to waters of the Commonwealth of Massachusetts.
40. TOWN: The Town of Holden.
41. VERNAL POOL: shall include, in addition to scientific definitions found in the Conservation Commission Regulations, and the Wetlands Protection Act any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, contains at least 200 cubic feet of water at some time during most years, is free of adult fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other Vernal Pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the Resource Areas for Vernal Pools shall be the mean

annual high-water line defining the depression and an additional one-hundred feet, the jurisdictional buffer shall consist of an additional one hundred feet from the resource area.

- 42. WATERCOURSE: A natural or man-made channel through which water flows or a stream of water, including a river, brook or underground stream.
- 43. WETLAND RESOURCE AREA: Areas specified in the Massachusetts Wetlands Protection Act M.G.L. c. 131, s.40 and in the Town of Holden Wetland Protection Bylaw.
- 44. WATERS OF THE COMMONWEALTH: All waters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters, groundwaters, and vernal pools.
- 45. WETLANDS: Wet meadows, marshes, swamps, bogs, areas where groundwater, flowing or standing surface water or ice provide a significant part of the supporting substrate for a plant community for at least five months of the year; emergent and submergent communities in inland waters; that portion of any bank which touches any inland water.

Section 1.3 Authority and Responsibility for Enforcement

- A. This Bylaw is adopted under the authority granted by the Home Rule Amendment of the Massachusetts Constitution and the Home Rule Procedures Act (MGL Chapter 43B), the Holden Town Charter, MGL Chapter 40, Section 21, pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34, and any other enabling authority available to the Town.
- B. The Director of Public Works of the Town of Holden (the “Director”), The Stormwater Committee, or an authorized agent thereof (hereafter known as Enforcing Agent), shall administer, implement, and enforce the provisions of this Bylaw, its regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations:
 - 1. The Director shall administer, implement, and enforce the provisions of *Section 2.0: Illicit Discharge Detection and Elimination*. Any powers granted or duties imposed upon the Director may be delegated in writing by the Director to persons or entities acting on behalf of the Town.
 - 2. The Stormwater Committee shall administer, implement, and enforce the provisions of *Section 3.0: Stormwater Management and Erosion Control*. The Stormwater Committee shall consist of the Town’s Department of Public Works Director or his designee, the Conservation Commission Agent, the Town Planner, and the Building Commissioner. The Stormwater Committee shall internally elect the Chair of the Committee every calendar year. Any powers granted or duties imposed upon the Committee may be delegated in writing by the Chair of the Committee to persons or entities acting on behalf of the Town.
- C. The Enforcing Agent shall have the authority to seek remedies, as described within the stormwater regulations, to enforce this Bylaw, its regulations and/or the terms and conditions of its permit.

- D. Any person found to be violating any of the provisions of this Bylaw and regulations promulgated by the Enforcing Agent pursuant to the authority granted by this Bylaw and by any and all applicable federal, state or local laws, regulations or rules shall be subject to enforcement action, as described within the stormwater regulations. Each day in which any such violation continues shall be deemed a separate offense.
- E. Any person found to be violating any of the provisions of this Bylaw and regulations promulgated by the Enforcing Agent pursuant to the authority granted by this Bylaw and by any and all applicable federal, state or local laws, regulations or rules shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation.
- F. Any person receiving notice of an enforcement action may appeal the determination of the Enforcing Agent. Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under *Section 1.6: Regulations* of this Bylaw.

Section 1.4 Applicability

- A. This Bylaw shall apply to every user of the Town's municipal storm drainage system, including dischargers to the municipal storm drainage system and to the waters of the Commonwealth of Massachusetts, and shall also apply to any land-disturbing activity within the Town of Holden where land disturbance is undertaken on a single property or is part of a larger common plan of development or sale that results in:
 - 1. a total cumulative disturbance of land that meets or exceeds 20,000 square feet of area, or
 - 2. a total cumulative added impervious surface that meets or exceed 5,000 square feet.
- B. The following land disturbance activities are exempt from the requirements of this Bylaw:
 - 1. Normal maintenance and improvement of Town owned public ways and related infrastructure.
 - 2. Normal maintenance and improvement of land in agricultural use.
 - 3. Repair or replacement of septic systems when required by the Board of Health for the protection of public health.
 - 4. Normal maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling provided such maintenance does not include the addition of more than 100 cubic yards of soil material, construction of any walls, alteration of existing grades by more than one foot in elevation, or alteration of drainage characteristics.
 - 5. The construction of fencing that will not alter existing terrain or drainage patterns.
 - 6. Construction of utilities other than drainage (gas, water, electric, telephone, etc.) that will not alter terrain or drainage patterns.

7. Activities conducted in accordance with an approved Massachusetts Department of Conservation and Recreation Forest Stewardship Plan.
8. Regular and approved maintenance of Stormwater Management structures.
9. Emergency work to protect life, limb, or property.

Section 1.5 Ultimate Responsibility of Discharger

- A. The standards set forth herein and promulgated pursuant to this Bylaw are minimum standards. This Bylaw does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants into waters of the Commonwealth caused by said person. This Bylaw shall not create liability on the part of the Town, or any agent or employee thereof for any damages that result from any discharger's reliance on this Bylaw or any administrative decision lawfully made thereunder.

Section 1.6 Regulations

- A. The Stormwater Committee may adopt and periodically amend rules and regulations to effectuate the purposes of this Bylaw. Said regulations may include but shall not be limited to provisions regarding administration, application requirements, fees, permitting procedures and requirements, design standards, surety requirements, inspection and site supervision requirements, waivers and exemptions, and enforcement procedures.
- B. Failure by the Stormwater Committee to promulgate such rules and regulations shall not have the effect of suspending or invalidating this Bylaw.

Section 1.7 Severability

- A. The provisions of this Bylaw are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this Bylaw or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this Bylaw.

Section 1.8 Transitional Provisions

- A. Owners shall have 60 days from the effective date of this Bylaw to comply with its provisions, provided good cause is shown for the failure to comply with the Bylaw during that period.

Section 3.0 Illicit Discharge Detection and Elimination

Section 3.1 Prohibited Activities

- A. Illicit Discharges. No person shall dump, discharge, cause or allow to be discharged into the municipal storm drain system, watercourses, or waters of the Commonwealth any pollutant or non-stormwater discharge.
- B. Illicit Connections. No person shall construct, use, allow, maintain or continue any illicit connection to the municipal storm drain system, regardless of whether the connection was permissible under applicable law, regulation or custom at the time of connection.
- C. Obstruction of Municipal Storm Drain System. No person shall obstruct or interfere with the normal flow of stormwater into or out of the municipal storm drain system without prior written approval from the Director.

Section 3.2 Exceptions

- A. The following non-stormwater discharges and flows to the municipal storm drain system and to waters of the Commonwealth are exempt from the prohibition on illicit discharges, provided that, in the opinion of the Director, the source is not a significant contributor of a pollutant to the Municipal Storm Drain System or to waters of the Commonwealth:

- 1. Potable water line flushing;
- 2. Uncontaminated pumped groundwater and other discharges from potable water sources;
- 3. Landscape irrigation and lawn watering;
- 4. Diverted stream flows;
- 5. Rising groundwater;
- 6. Groundwater infiltration to the municipal storm drain system;
- 7. Uncontaminated foundation and footing drains;
- 8. Uncontaminated water from crawl space pumps;
- 9. Air conditioning condensation;
- 10. Uncontaminated non-industrial roof drains;
- 11. Natural springs;
- 12. Individual residential and occasional non-commercial car washing;
- 13. Flows from riparian habitats and wetlands;
- 14. Dechlorinated swimming pool discharges (provided that the chlorine content is < 1 ppm, water has been allowed to stand for one week prior to draining, and that the discharge is performed in such a way as not to cause a nuisance);
- 15. Street sweeping waters;

16. Flows resulting from firefighting activities;
17. Non-stormwater discharges permitted under an NPDES permit, waiver, or waste discharge order administered under the authority of the United States Environmental Protection Agency, or a surface water discharge permitted by DEP, provided that the discharge is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations, and provided further that written approval has been granted by the Director for any discharge to the municipal storm drain system;
18. Any other non-stormwater discharges that are not a source of pollutants to the Municipal Storm Drain System nor waters of the Commonwealth, as set forth in a written determination by the Director.

Section 2.3 Authority to Enter, Inspect, Sample, Establish Sampling Devices, and Test

- A. To the extent permitted by law, or if authorized by the owner or other party in control of the property, the Director, or other agents, officers, and employees of the Department of Public Works may enter upon privately owned property for the purpose of performing their duties under this Bylaw and may make or cause to be made such examinations, surveys or sampling as the Director deems reasonably necessary. During any inspection as provided herein, the Director may take any samples and perform any testing deemed necessary to aid in the pursuit of the inquiry or to record site activities.
- B. The Director may require by written notice that any person engaged in any activity and/or owning or operating any facility which may cause or contribute to stormwater pollution, Illicit Discharges, and/or non-stormwater discharges to the Municipal Storm Drain System or waters of the Commonwealth, undertake at said person's expense such monitoring and analyses and furnish such reports to the Town as deemed necessary to determine compliance with this Bylaw.

Section 3.0 Stormwater Management and Erosion Control

Section 3.1 Permits & Procedures

- A. No person may undertake Land Disturbance Activity regulated by this Bylaw in *Section 1.4: Applicability* without a Land Disturbance Permit from the Stormwater Committee pursuant to this Bylaw and regulations promulgated hereunder.
- B. Permit Procedures and Requirements shall be defined and included as part of any rules and regulations promulgated as permitted under *Section 1.6: Regulations* of this Bylaw.

Section 3.2 Fees

- A. The Stormwater Committee shall establish fees to cover expenses connected with application review and monitoring permit compliance. The fees shall be sufficient to cover the costs of Town

secretarial staff and professional staff time for the review, processing, and monitoring an application and permit.

Section 3.3 Surety

- A. The Stormwater Committee may require the permittee to post before the start of any Land Disturbance Activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security. The form of the bond shall be approved by Town Counsel, if necessary, and be in an amount deemed sufficient by the Stormwater Committee to ensure that the work will be completed in accordance with the permit. If the project is phased, the Stormwater Committee may, in its sole and absolute discretion, release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Stormwater Committee has received a final report stating that all the work has been satisfactorily completed, as required in the Regulations.

Section 3.4 Waivers

- A. The Stormwater Committee may waive strict compliance with any requirement of the rules and regulations promulgated hereunder, where such action: is allowed by federal, state and local statutes and/or regulations, is in the public interest, and is not inconsistent with the purpose and intent of this Bylaw.